UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,017	12/02/2003	Marcel Bally	532552001200	4423
	7590 09/17/200 : FOERSTER LLP		EXAMINER	
12531 HIGH B		SWARTZ, RODNEY P		
SUITE 100 SAN DIEGO, (	CA 92130-2040		ART UNIT	PAPER NUMBER
,			1645	
			MAIL DATE	DELIVERY MODE
			09/17/2008	PAPER

## Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Diffice Action Summary    The Examiner		Application No.	Applicant(s)				
Rodriey P. Swartz, Ph.D. 1645  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Eathermore for the rare the varieties under the provisions of 37 CRT. 178001, in or worth toxinor may reby be termly filled.  # NO period for reply is signified intered, the maintain shahrory period will apply and will expire SK (5) MONTHS from the mailing date of this communication.  # Pallus to reply which the set or contended period for any with 15 blades to communication. Pallus to reply with the set or contended period for any with 15 blades to reply with 15 blades the set of the mainty date of this communication.  ### Pallus to reply with 15 blades to	Office Action Commence	10/727,017	BALLY ET AL.				
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Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  □ Estatesions of time may be available under the provisions of 37 CFR 1.13(a). Into avestic however, may a reply be timely fixed.  □ If NO product for may be specified above, the meanines underly and will expert SK(f) MONTHS from the realing date of this communication.  □ Failure to reply within the set or received principle reply will be yesheld, cause the application to become ABANDONED (35 U.S.C. § 133). Any noty, received by the Office also the thin three meaning date of this communication, even if simily filed, may reduce any control plants term adjustment. See 57 CFR 1.79(b).  Status  1) □ Responsive to communication(s) filed on		Rodney P. Swartz, Ph.D.	1645				
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1) Responsive to communication(s) filed on  2a) This action is FINAL.  2b) This action is non-final.  3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4 Claim(s) 1,3-31,34 and 35 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5 Claim(s) 1,3-31,34 and 35 is/are rejected.  7 Claim(s) 1,3-31,34 and 35 is/are rejected.  7 Claim(s) is/are allowed.  6 Claim(s) 1,3-31,34 and 35 is/are rejected.  7 Claim(s) are subject to restriction and/or election requirement.  Application Papers  9 The specification is objected to by the Examiner.  10 The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11 The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12 Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.	<ul> <li>WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.</li> <li>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any</li> </ul>						
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3) Information Disclosure Statement(s) (PTO/SB/08)  Paper No(s)/Mail Date  5) Notice of Informal Patent Application 6) Other:	1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08)	Paper No(s)/Mail Da 5) Notice of Informal Pa	te				

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Art Unit: 1645

## **DETAILED ACTION**

1. After a Post-Allowance evaluation by the Quality Assurance Specialists, the Notice of Allowance has been withdrawn.

2. Claims 1, 3-31, 34, and 35 are pending and under consideration.

## Claim Rejections - 35 USC § 103

- 3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 4. Claims 1, 3-31, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shay et al (U.S. Pat. No. 6,015,710).

Shay et al teach a receptor recognition protein (such as the internalizing protein of the instant claims) linked to a lipid which is then linked to another peptide which modulates telomerase (col.12; claim 4; col. 16, line 60 to col. 17, line7). The lipid is between the internalizing peptide and the biologically active component. Modifying the linkage order would be an obvious modification, in the absence of evidence to the contrary.

Thus, the instantly claimed lipid compositions are obvious over the compositions taught by Shay et al.

## **Conclusion**

- 5. No claims are allowed.
- 6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571)

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272-0865. The examiner can normally be reached on Monday through Wednesday from 9:00 AM to 7:30 PM EST. Thursday is the examiner's work at home day.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisors, Shannon Foley (571)272-0898, and Robert B. Mondesi (571)272-0956.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <a href="http://pair-direct.uspto.gov">http://pair-direct.uspto.gov</a>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Rodney P. Swartz, Ph.D./ Primary Examiner, Art Unit 1645

September 9, 2008